

MARK SCHLEIPFER,)
)
Plaintiff,)
)
vs.) Case No. 1:06CV109 CDP
)
MITEK CORP. d/b/a MTX CORP.,)
et al.,)
)
Defendants.)

This matter is before me on defendants' motion for leave to file an answer out of time and plaintiff's motion for entry of clerk's default. This case was filed on August 8, 2006, and defendants were required to answer or otherwise respond to the complaint by October 16, 2006. In their motion filed October 26, 2006, defendants aver that they were unable to complete the factual investigation necessary to respond to the complaint in a timely fashion.


Because there is a “judicial preference for adjudication on the merits,” Oberstar v. F.D.I.C., 987 F.2d 494, 504 (8th Cir. 1993), I find that the interests of justice will be best served by permitting defendants to file an answer and defend this action. I also find that plaintiff has not been prejudiced by defendants’ ten-day delay in responding to the complaint. For these reasons, I will grant

defendants' motion to file an answer out of time. Having granted defendants leave to file their answer, I will deny plaintiff's motion for entry of default as moot.

Accordingly,

IT IS HEREBY ORDERED that defendants' motion for leave to file answer and affirmative defenses out of time [#7] is granted.

IT IS FURTHER ORDERED that plaintiff's motion for entry of clerk's default [#6] is denied as moot.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 27th day of October, 2006.